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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,471	01/22/2004	Jerry P. Lensing	REL2004	4390

7590 05/05/2005

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EXAMINER
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SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/761,471	Applicant(s) LENSING, JERRY P.	
	Examiner J. Allen Shriver	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,4-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 2,4-9, 13-18 and 20-21 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant submitted an amendment on January 31, 2005, wherein claims 2, 4-9, 13 were 18-19 amended, claims 1, 3 and 12 were cancelled, and added claims 20-21 are new.

### *Drawings*

2. The drawings were received on January 31, 2005. These drawings are approved.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 2, 4-9 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckstrum (US Patent 5,472,219).** Eckstrum discloses a wheeled creeper(10) for use on a support surface, the wheeled creeper comprising a frame (11); a platform (12) mounted on said frame; a plurality of swivelable casters (13) supporting the frame; and a braking device for releasably engaging the support surface (See Figs. 5-6); said braking device comprising a plurality of brake shoes (15) and a linkage for actuating the brake shoes; said linkage includes a plurality of mounting rods (See Fig. 7, the cross bars spanning between the frame rails), a plurality of levers (19), a tie rod (14) and a handle (18); **[claim 2]** wherein said braking device is

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movable between an engaged position and a disengaged position (See Figs. 5-6); when said braking device is in said engaged position the creeper is deterred from rolling movement; and when said braking device is in said disengaged position the creeper is free to roll on the support surface; **[claim 4]** wherein each of said brake shoes comprises an elongated member and at least one brake pad disposed on the elongated member (See Fig. 6); **[claim 5]** wherein said plurality of brake shoes comprises a first and second brake shoe (See Fig. 4); **[claim 6]** wherein each of said brake shoes includes a brake pad for engaging the support surface; when said braking device is in said engaged position said at least one brake shoe is lowered with the brake pad directed away from the platform, the brake engages the support surface, and the creeper is deterred from rolling (See Fig. 6); and when said braking device is in said disengaged position said at least one brake shoe is raised with the brake pad positioned away from the support surface and said creeper is allowed to roll freely (See Fig. 5); **[claim 7]** wherein said plurality of brake shoes comprises a first and second brake shoe (See Fig. 4); and said linkage moves the first and second brake shoes between the engaged and disengaged positions; **[claim 8]** wherein said plurality of mounting rods includes first and second mounting rods and said plurality of levers comprises first and second levers (See Fig. 7); **[claim 9]** wherein said linkage further comprises biasing means for holding the braking device in the disengaged position.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 13-18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US Patent Application Publication 2005/0023780 A1) in view of Eckstrum (US Patent 5,472,219).** Liu discloses a wheeled creeper for use on a support surface, the wheeled creeper comprising a frame (1,2,3); a platform (14,24,35) releasably mounted on the frame; a plurality of swivelable casters (36) supporting the frame; wherein the frame comprises a central portion, a first portion and a second portion; said frame further comprises first and second releasable connecting members, wherein said first releasable connecting member adjoins the first and central portions, and said second releasable connecting member adjoins said second and central portions (See Fig. 2); **[claim 13]** wherein said central portion comprising first and second ends; and the first portion is attached to the first end of the central portion and the second portion is attached to the second end of the central portion (See Fig. 2); **[claim 14]** wherein said first connecting member comprises at least one stud on the first portion and a socket on the first end of the central portion for receiving the stud on the first portion therein; and said second connecting member comprises at least one stud on the second portion and a socket on the second end of the central portion for receiving the stud on the second portion therein (See Fig. 2); **[claim 15]** wherein said first and second connecting members are releasable (See Fig. 2); **[claim 16]** wherein said first connecting member further comprises at least one end aperture extending through the socket on the first end of the central portion and at least one through hole in said stud on the first portion and at least one releasable pin; and said second connecting member further comprises at least one end aperture extending through the socket on the second end of the central portion and at least one through hole in said stud on the second portion and at least one

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releasable pin; wherein each of said through holes in the at least one stud on the first and second portions is aligned with a respective end aperture on the first and second ends of the central portion, and one of said plurality of releasable pins extends through each aligned through hole and end aperture (See Fig. 2); **[claim 17]** wherein said at least one stud on each of said first and second portions comprises a pair of studs, and said at least one stud on each of the first and second ends of the central portion comprises a pair of studs (See Fig. 2). Liu does not disclose a braking device for deterring rolling movement of the creeper. Eckstrum discloses a creeper having a braking device for deterring rolling movement of the creeper. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide a brake device on the creeper disclosed in Liu in view of the teaching of Eckstrum. The motivation for doing so would have been to allow the creeper to be securely maintained in one position while being used.

Regarding claim 18, Eckstrum discloses wherein said braking device comprises at least one brake shoe that releasably engages the support surface and an actuating means for moving the at least one brake shoe between an engaged and disengaged position with the support surface.

***Allowable Subject Matter***

7. Claim 19 is allowed over the prior art.
8. Claims 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 20-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (571) 272-6698. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (571) 272-6914. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

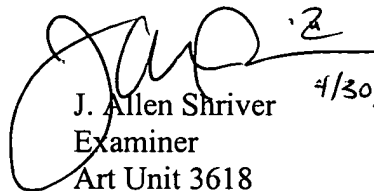
Or faxed to: (703) 872-9306 (for formal communications intended for entry). (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Saturday, April 30, 2005

  
J. Allen Shriver  
Examiner  
Art Unit 3618

4/30/05

JAS